

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

SCOTT STERN,

Plaintiff,

v.

**UNIVERSITY OF MASSACHUSETTS AT
AMHERST, et al.,**

Defendants.

**Civil Action No.
04-30176-FDS**

MEMORANDUM AND ORDER

SAYLOR, J.

On December 28, 2004, Plaintiff Scott Stern, proceeding *pro se* and *in forma pauperis*, filed a notice of appeal of the Court's December 23, 2004 order dismissing this case. On February 14, 2005, Stern filed a motion that seeks (1) "an order setting aside the Judgment"; (2) an order directing that the transcripts of hearings held September 17 and September 23, 2004, be prepared at the government's expense; and (3) an order directing that copies of those transcripts be "granted" to defendants, plaintiff, and the Court of Appeals. The Court will consider each request in turn.

I. Motion for Reconsideration

The Court interprets Stern's request for "an order setting aside the Judgment" as a motion for reconsideration under Fed. R. Civ. P. 60(b). When a party files a Rule 60(b) motion in the district court while an appeal is pending, the district court must review it expeditiously and quickly deny it if it appears to be without merit. *Puerto Rico v. SS Zoe Colocotroni*, 601 F.2d 39, 42 (1st Cir. 1979). The Court has reviewed the extensive materials filed by Stern and finds that

his motion for reconsideration simply restates arguments that were previously raised and rejected. Accordingly, the motion for reconsideration will be denied.

II. Transcripts

Stern also seeks an order providing that transcripts of certain proceedings be prepared at the government's expense pursuant to 28 U.S.C. § 753(f). The Court has considered the issues in Stern's case and certifies that his appeal is not frivolous, but rather presents a substantial question. Therefore, the Court will order that the transcripts in question be prepared at the expense of the United States.

III. Copies

Stern also apparently seeks an order providing that the United States will pay for photocopies of the relevant transcripts. Section 753(f) of Title 28 does not provide for such photocopying to be done at the government's expense, and Stern has provided the Court with no other authority in support of his a request. Accordingly, that request will be denied.

Order

To the extent that Stern's motion seeks reconsideration of the Court's order dismissing this case, that motion is DENIED. Stern's motion for the United States to pay for transcripts of the September 17, 2004 and September 23, 2004 proceedings in this Court is GRANTED. To the extent that Stern's motion asks for the United States to pay for photocopies of those transcripts, that motion is DENIED.

So Ordered.

/s/ F. Dennis Saylor
F. Dennis Saylor IV
United States District Judge

Dated: February 18, 2005